



IPW

Attorney Docket No.: 63979-036  
**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of :  
Kiyoshi MORIMOTO, et al. : Customer No. 20277  
Serial No.: 10/716,621 : Confirmation No.: 6335  
Filed: November 20, 2003 : Group Art Unit: 2891  
For: NON-VOLATILE MEMORY AND FABRICATION METHOD THEREOF : Examiner: CHRISTIAN D. WILSON

**ELECTION UNDER 35 U.S.C. § 121**

Mail Stop Amendment  
Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed April 14, 2005, having a shortened statutory period for response set to expire May 14, 2005, wherein the Examiner required restriction between the following Groups:

- Group I - Claims 1-18, drawn to a semiconductor device; and
- Group II - Claims 19-28, drawn to a method of manufacturing a semiconductor device.

Applicants elect without traverse, Group I, claims 1-18 for initial prosecution on the merits. Applicants also reserve the right to file a Divisional Application for the non-elected claims 19-28, which the Examiner has indicated is patentably distinct.

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have

inadvertently overlooked the need for a petition for extension of time. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417. A duplicate copy of this response is enclosed for accounting purposes.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date:

5/12/05

By:

  
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